

Memorandum 2019-21

**Statutes Made Obsolete by Trial Court Restructuring: Marshals
(Draft of Tentative Recommendation)**

At previous meetings, the Commission tentatively approved some statutory revisions relating to marshals, the law enforcement officers who used to provide court security services to the municipal courts.¹ Attached for the Commissioners and other interested persons to review is a staff draft of a tentative recommendation compiling those proposed reforms.

One issue relating to the draft is discussed below. **After resolving that issue, the Commission will need to decide whether to approve the attached draft as a tentative recommendation (with or without revisions), to be widely circulated for comment.**

POSSIBLE ADDITIONAL REVISION OF THE SHERIFF-MARSHAL
CONSOLIDATION STATUTE FOR CONTRA COSTA COUNTY

In August 1988, the marshal's office in Contra Costa County was abolished and personnel from that office became employees of the local sheriff's office.² The details of that transition were specified by statute (the "Contra Costa County Court Services Consolidation Act of 1988").³

Since then, that statute has been revised twice.⁴ Some of the remaining material (Government Code Sections 26625-26625.9) concerns ongoing operation of the sheriff's office and probably has continuing utility. Due to the passage of

1. See Memorandum 2018-48; Minutes (Oct. 2018), pp. 5-7. See also Memorandum 2018-21, pp. 4, 20-23; Memorandum 2018-31, pp. 2-4; Minutes (May 2018), p. 6; Minutes (Aug. 2018), p. 4.

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. See 1988 Cal. Stat. ch. 444 (urgency legislation).

3. See *id.*

4. See 1994 Cal. Stat. ch. 283; 2002 Cal. Stat. ch. 784, §§ 143-153.

time, however, the material referring to the consolidation process may be obsolete.

Last October, the Commission tentatively decided to revise the Contra Costa statute along the following lines to delete the material referring to the consolidation process:⁵

Article 1.2. Court Security in Contra Costa County Marshal/Sheriff Consolidation

~~26625. This article shall be known and may be cited as the Contra Costa County Court Services Consolidation Act of 1988.~~

26625.2. There is a court security bureau within the Contra Costa County Sheriff's Department to serve the superior court. The relationship between the sheriff's department and the court security bureau shall be similar to that which exists between the Sheriff's Department of Contra Costa County and certain cities in the county that contract for police services.

26625.3. There is a Court Security Oversight Committee consisting of five superior court judges appointed by the presiding judge. The duties of the committee shall be those prescribed by this article, and include, but are not limited to, the following:

- (a) To approve all transfers out of and into the court security bureau.
- (b) To approve staffing levels and the recommended budget prior to submission to the Judicial Council.
- (c) To approve security measures and plans prepared by the sheriff, through the court security bureau commander.
- (d) Notwithstanding any other provisions of law, the sheriff shall provide bailiffing, court security, and prisoner holding in the Superior Court of Contra Costa County.

26625.4. (a) The sheriff shall be the appointing authority for all court security bureau positions and employees.

(b) The selection, appointment, and removal of management heads of the court security bureau shall be made by a majority vote of the superior court judges of Contra Costa County from a list of qualified lieutenants submitted by the sheriff.

26625.5. (a) All personnel of the marshal's office who are assigned to court services on the operative date of this section shall become members of the court security bureau at their existing salaries and benefits. Permanent employees presently holding the rank of deputy or sergeant, respectively, in the marshal's office shall become deputy sheriffs or sheriff's sergeants upon the operative date of this section.

(b) Sworn personnel described in subdivision (a) may be transferred to another position in the sheriff's office at the same or an equivalent classification, but shall not be involuntarily transferred out of court services.

(c) Permanent employees of the sheriff's office assigned to court services on the operative date of this section and permanent employees of the marshal's office on the operative date of this section shall be deemed

5. Minutes (Oct. 2018), p. 6.

~~qualified for employment and retention in the Sheriff's Department of Contra Costa County. Probationary employees of the sheriff's department assigned to court services on the operative date of this section and probationary employees of the marshal's office on the operative date of this section shall retain their probationary status and rights, and shall not be required to start a new probationary period.~~

~~(d) For personnel of the sheriff's office assigned to court services on the operative date of this section and personnel of the marshal's office on the operative date of this section, all county service shall be counted toward county seniority, and all time spent in the same classification, and all time spent in the equivalent or higher classification shall be counted toward classification seniority. All county seniority shall be credited as departmental seniority. For layoff and displacement purposes all covered service in the sheriff's department and marshal's office shall be counted equally, and the County's Personnel Management Regulations and other governing county ordinances and resolutions shall determine the class, county, and departmental seniority dates, the seniority and layoff order, and displacement rights of all employees.~~

~~(e) No employee of the sheriff's office assigned to court services on the operative date of this section or employee of the marshal's office on the operative date of this section shall lose peace officer status or be demoted or otherwise adversely affected by the consolidation of court services accomplished by this section. Peace Officer Standards and Training certificates held on the operative date of this section by employees of the Marshal's Department of Contra Costa County and the Sheriff's Department of Contra Costa County shall be considered the same for purposes of this section.~~

26625.6. (a) Notwithstanding any other provision of this article, the sheriff through the court security bureau commander shall make all transfers within the court security bureau consistent with existing personnel policies of the sheriff, memoranda of understanding, if any, and other county personnel management rules and regulations.

~~(b) A deputy marshal or deputy marshal sergeant on the operative date of this section who transfers out of the court security bureau to another division of the sheriff's office and subsequently fails to meet the employment standards of the other division may be transferred back to the court security bureau at the sole discretion of the sheriff.~~

26625.7. An employee of the sheriff's office who desires to transfer into the office of court services shall make application through the appropriate division to the court security bureau commander. That employee, if approved by the Court Security Oversight Committee for transfer to the court security bureau, shall execute an agreement to serve in the court security bureau for a minimum term of three years.

26625.8. ~~Since the sheriff's department previously required each of its deputies to serve on its jail detention staff, and a deputy was permitted to credit time spent as a superior court bailiff prior to January 5, 1987, in lieu of all or part of this jail requirement, employees of the marshal's office on the operative date of this section shall be required to serve on the jail staff only if they transfer out of the court security bureau. In addition, those employees shall receive day-for-day credit on the jail requirement for time spent prior to the operative date of this section in bailiff-related services in the municipal court to the same extent as~~

~~sheriff's deputies receive such credit for time spent in bailiff-related services in the superior court. The purpose of this section is to provide equality of treatment for those who have provided equivalent service in the municipal and superior courts.~~

26625.9. All sworn permanent employees ~~subsequently~~ assigned to the court security bureau shall be required to meet those requirements of the California Commission on Peace Officer Standards and Training imposed on all marshal's departments in California.

The attached draft would implement that decision.⁶

After the Commission decided to proceed with the revisions shown above, Charles Martel of the Judicial Council informed the staff about some input from one of his colleagues, Jimmy Nguyen. Mr. Martel had asked Mr. Nguyen to look at the Commission's revisions because Mr. Nguyen is an expert on the laws relating to court security.

Mr. Nguyen did not voice any concerns about the Commission's revisions, but he did suggest one additional revision of the Contra Costa statute, as shown below:

26625.3. There is a Court Security Oversight Committee consisting of five superior court judges appointed by the presiding judge. The duties of the committee shall be those prescribed by this article, and include, but are not limited to, the following:

(a) To approve all transfers out of and into the court security bureau.

(b) To approve staffing levels and the recommended budget ~~prior to submission to the Judicial Council.~~

(c) To approve security measures and plans prepared by the sheriff, through the court security bureau commander.

(d) Notwithstanding any other provisions of law, the sheriff shall provide bailiffing, court security, and prisoner holding in the Superior Court of Contra Costa County.

According to Mr. Nguyen, the phrase in ~~strikeout~~ ("prior to submission to the Judicial Council") no longer applies, because the Judicial Council "no longer receives recommended court security budget plans from the court/sheriff."⁷

As best the staff can tell, the revision that Mr. Nguyen suggests is unrelated to trial court restructuring and the sheriff-marshall consolidation process in Contra Costa County. It might, however, fall within the Commission's authority

6. See proposed revisions of Gov't Code §§ 26625, 26625.5, 26625.6, 26625.8, 26625.9 & corresponding article heading.

7. See email from Charles Martel to Barbara Gaal (10/12/18) (on file with Commission).

under Government Code Section 8298 to “recommend revisions to correct technical or minor substantive defects in the statutes of the state”

Would the Commission like to include this additional revision in its tentative recommendation? If so, the staff has three more suggestions for the Commission to consider.

First, the proposed amendment will need an accompanying Comment. **We suggest the following:**

Comment. Section 26625.3 is amended to delete an obsolete phrase. The practice of submitting a court security budget plan to the Judicial Council has been discontinued.

Second, the “Summary of Tentative Recommendation” should refer to Government Code Section 8298. **That could be accomplished like so:**

This recommendation was prepared pursuant to Government Code Section Sections 8298 and 71674 and Resolution Chapter 158 of the Statutes of 2018.

Third, it would be helpful to add a paragraph at the end of footnote 36, briefly explaining the amendment of Government Code Section 26625.3. **The staff suggests something like this:**

The Commission also proposes another revision of the sheriff-marshal consolidation statute for Contra Costa County. See proposed amendment of Gov’t Code § 26625.3 & Comment *infra*. This amendment would delete an obsolete reference to a discontinued practice. The amendment falls within the Commission’s general authority to “recommend revisions to correct technical or minor substantive defects in the statutes of the state” Gov’t Code § 8298.

Are these three additional suggestions acceptable to the Commission?

Respectfully submitted,

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CALIFORNIA LAW REVISION COMMISSION

<h2>STAFF DRAFT</h2>

TENTATIVE RECOMMENDATION

Trial Court Restructuring Clean-Up: Obsolete References to Marshals

April 2019

The purpose of this tentative recommendation is to solicit public comment on the Commission's tentative conclusions. A comment submitted to the Commission will be part of the public record. The Commission will consider the comment at a public meeting when the Commission determines what, if any, recommendation it will make to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made to it.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN **xxxx**.

The Commission will often substantially revise a proposal in response to comment it receives. Thus, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

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SUMMARY OF TENTATIVE RECOMMENDATION

Historically, California had both municipal courts and superior courts. Those two kinds of trial courts heard different types of cases and used different procedures. They also received court security services from different sources: Marshals provided such services in the municipal courts, while sheriffs provided such services in the superior courts.

In 1998, California voters approved a constitutional amendment that permitted county-by-county trial court unification. Under that measure, if a majority of the municipal court judges and a majority of the superior court judges in a county agreed, the municipal and superior courts in the county could unify their operations in the superior court. By early 2001, the municipal and superior courts in all 58 counties had unified.

In most counties, the sheriff's office and the marshal's office similarly consolidated their operations at about the same time, and the sheriff's office became responsible for providing court security services to the unified superior court. Just two counties still have a marshal's office: Shasta and Trinity. In those counties, the marshal's office (not the sheriff's office) now provides court security services to the unified superior court.

Due to trial court unification and two other major reforms of the trial court system (enactment of the Lockyer-Isenberg Trial Court Funding Act and enactment of the Trial Court Employment Protection and Governance Act), hundreds of code sections became obsolete, in whole or in part. The Law Revision Commission is responsible for reviewing the codes and recommending revisions to remove the obsolete material.

The Commission has done extensive work on this matter, resulting in the enactment of many bills. Numerous provisions relating to marshals (as well as lots of other provisions) have already been revised to reflect trial court restructuring.

Some such work remains unfinished. Among other things, the codes still contain some marshal-related material that now appears to be obsolete.

This tentative recommendation proposes statutory revisions to remove that marshal-related material from the codes. The Commission seeks comment on its proposed revisions.

This recommendation was prepared pursuant to Government Code Section 71674 and Resolution Chapter 158 of the Statutes of 2018.

TRIAL COURT RESTRUCTURING CLEAN-UP: OBSOLETE REFERENCES TO MARSHALS

1 California's trial court system was extensively restructured around the turn of
2 the century, to improve its efficiency and operations. As a result, hundreds of
3 provisions throughout the codes became obsolete, in whole or in part.

4 Much of the obsolete material has since been removed from the codes on the
5 Commission's recommendation. Some clean-up work still needs to be done.

6 In this tentative recommendation, the Commission proposes various revisions to
7 remove obsolete material relating to marshals, the law enforcement officers who
8 provided court security services to the municipal courts. The Commission seeks
9 input on its proposed revisions.

10 **Background Information**

11 Before describing and explaining the proposed revisions, it may be helpful to
12 briefly discuss (1) how the trial court system used to work and how it was
13 restructured, (2) how court security services were provided in the past and how
14 they are provided today, and (3) the Commission's role in trial court restructuring
15 and previous work in the area.

16 *California's Trial Court System: Past and Present*

17 In the late 1990's, each county had a superior court and one or more municipal
18 courts with limited jurisdiction.¹ Those trial courts were county-operated, funded
19 primarily by the counties, and largely staffed with county employees.²

20 Around the turn of the century, three major reforms occurred:

- 21 • *Trial court unification.* In 1998, the voters approved a measure that permitted
22 trial court unification on a county-by-county basis: On a vote of a majority of
23 the municipal court judges and a majority of the superior court judges in a
24 county, the municipal and superior courts in that county could unify their
25 operations in the superior court.³ By early 2001, the trial courts in all of
26 California's 58 counties had unified.⁴ Each county now has a unified superior
27 court, which handles all trial court operations in that county.

1. See former Cal. Const. art. VI, §§ 4, 5. Justice courts also used to exist, but they were eliminated statewide through a ballot measure approved by the voters in 1994. See 1994 Cal. Stat. res. ch. 113 (SCA 7 (Dills)) (Prop. 191, approved Nov. 8, 1994).

2. See, e.g., Senate Committee on Judiciary Analysis of AB 233 (June 10, 1997); *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51, 76-79 (1998) (hereafter, "*TCU: Revision of Codes*"; J. Clark Kelso, Analysis of Existing Court Staffing Statutes (DRAFT: Jan. 24, 2000) (on file with Commission)).

3. See 1996 Cal. Stat. res. ch. 36 (SCA 4 (Lockyer)) (Prop. 220, approved June 2, 1998).

4. See <https://www.courts.ca.gov/documents/unidate.pdf>.

- 1 • *Lockyer-Isenberg Trial Court Funding Act*. Under this 1997 legislation,⁵ the
2 state assumed full responsibility for funding trial court operations.⁶ The goal
3 was to eliminate disparities in funding from county to county, helping to
4 ensure equal service in courts across the state.⁷
- 5 • Enactment of the Trial Court Employment Protection and Governance Act
6 (“TCEPGA”). This legislation was enacted in 2000.⁸ It established a new
7 personnel system for trial court employees, in which they are employed by the
8 superior court itself (not by the county or the state).⁹

9 *Court Security Services: Past and Present*

10 Historically, the local marshal was responsible for providing security services to
11 a municipal court. The local sheriff was responsible for providing security services
12 to a superior court.¹⁰

13 Around the same time as trial court unification and the other reforms described
14 above, many counties consolidated their marshal’s office with their sheriff’s
15 office. Typically, the marshal’s office was eliminated, its employees became
16 employees of the sheriff’s office, and the sheriff’s office became responsible for
17 providing all court security services in the county. In some counties, this occurred
18 before the municipal and superior courts unified;¹¹ elsewhere, it occurred after
19 unification.¹²

20 Two counties still have a marshal’s office: Shasta and Trinity. In those counties,
21 the marshal’s office (not the sheriff’s office) now provides court security services
22 to the unified superior court.¹³

5. 1997 Cal. Stat. ch. 850; see generally Gov’t Code §§ 77000-77655.

6. See Gov’t Code § 77200.

7. See Gov’t Code § 77100(c)-(d).

8. 2000 Cal. Stat. ch. 1010; see generally Sections 71600-71675.

9. See, e.g., Senate Committee on Judiciary Analysis of SB 2140 (May 9, 2000).

10. See *Statutes Made Obsolete by Trial Court Restructuring: Part 1*, 32 Cal. L. Revision Comm’n Reports 1, 15 (2002) (hereafter, “*TCR: Part 1*”). When justice courts existed, they received court security services from constables. *Id.* Today, there are no constables and most statutory references to them have been already been deleted. For analysis of the remaining statutory references to constables, see *Trial Court Restructuring Clean-Up: Obsolete “Constable” References*, 45 Cal. L. Revision Comm’n Reports ___ (2018).

11. See, e.g., Gov’t Code §§ 26225-26225.9 (Contra Costa County Court Services Consolidation Act of 1988).

12. See, e.g., Gov’t Code § 26638.15 (authorizing board of supervisors to abolish marshal’s office in Merced County); Merced County Ordinance No. 1687 (effective Jan. 15, 2003) (abolishing marshal’s office in Merced County); Merced County Bd. of Supervisors, Minutes (Dec. 3, 2001), pp. 4, 16 (memorializing board of supervisors’ decision to abolish marshal’s office in Merced County).

13. See Gov’t Code § 69921.5; see also <http://www.shastacourts.com/Divisions/Marshal.shtml> (“The Shasta County Marshal’s Office is the law enforcement division of the Superior Court.”); <https://www.trinity.courts.ca.gov/security> (“The Marshal’s Office is the law enforcement arm of the Trinity Superior Court.”).

1 ***The Commission's Involvement in Trial Court Restructuring***

2 Government Code Section 71674 directs the Law Revision Commission to
3 review the codes, determine whether any provisions are obsolete due to trial court
4 restructuring, and recommend revisions to remove the obsolete material.¹⁴ The
5 Commission is not authorized to make any policy decisions about trial court
6 restructuring; it is just supposed to help conform the codes to reflect the major
7 reforms described above.¹⁵

8 The Commission has done a vast amount of work in response to this directive,
9 resulting in many bills and the revision of over 1,700 code sections, as well as a
10 few constitutional provisions.¹⁶ Nonetheless, some work still needs to be done.¹⁷

11 One area still requiring attention relates to marshals. In previous work, the
12 Commission recommended, and the Legislature enacted, numerous statutory
13 revisions to delete obsolete references to marshals.¹⁸ Due to the passage of time,
14 however, additional statutory references to marshals may have become obsolete.

15 In this study, the Commission systematically reviewed the codes for remaining
16 references to marshals. As explained below, some of the marshal-related
17 provisions it found contain material that now appears to be obsolete.

18 **Obsolete References to Marshals**

19 The remaining statutory references to marshals arise in a number of contexts.
20 The ones described here appear to be obsolete and the Commission tentatively
21 recommends revising them to delete the obsolete material.

14. Section 71674 says:

71674. The California Law Revision Commission shall determine whether any provisions of law are obsolete as a result of the enactment of [the TCEPGA], the enactment of the Lockyer-Isenberg Trial Court Funding Act of 1997 (Chapter 850 of the Statutes of 1997), or the implementation of trial court unification, and shall recommend to the Legislature any amendments to remove those obsolete provisions. The commission shall report its recommendations to the Legislature, including any proposed statutory changes.

15. The Commission played a similar role in the early phases of trial court restructuring. See *Trial Court Unification: Constitutional Revision* (SCA 3), 24 Cal. L. Revision Comm'n Reports 1 (1994) (presenting constitutional revisions necessary to implement trial court unification, but not addressing its wisdom or desirability); *TCU: Revision of Codes*, *supra* note 2 (presenting statutory revisions necessary to accommodate county-by-county unification).

16. For a summary of the work completed as of early 2018, see CLRC Staff Memorandum 2018-5. For information on more recent progress, see <http://www.clrc.ca.gov/J1405.html>. At the bottom of that webpage, persons can subscribe to be notified when the Commission generates additional materials relating to trial court restructuring.

17. For a summary of projects remaining as of early 2018, see CLRC Staff Memorandum 2018-5. For information on recent progress, see <http://www.clrc.ca.gov/J1405.html>.

18. See, e.g., *TCR: Part 1*, *supra* note 10, at 15-16; *Statutes Made Obsolete by Trial Court Restructuring: Part 5*, 39 Cal. L. Revision Comm'n Reports 109 (2009).

1 ***Display of Flashing Amber Warning Lights by Peace Officer Personnel of a Marshal (Veh.***
2 ***Code § 25254)***

3 Under Vehicle Code Section 25254, a peace officer in a marshal’s department in
4 a county with at least 250,000 people may display flashing amber warning lights
5 when operating a publicly owned vehicle in specified circumstances. This
6 provision appears to be obsolete because there no longer are any counties where it
7 would apply. Only Shasta and Trinity counties still have marshals,¹⁹ and their
8 populations are much less than 250,000.²⁰ Consequently, the Commission
9 recommends that Vehicle Code Section 25254 be repealed.²¹

10 ***Locations of the Marshal’s Office in the North County Judicial District of San Diego County***
11 ***(Gov’t Code § 73956)***

12 Government Code Section 73956 pertains to a former municipal court district
13 (the North County Judicial District) in San Diego County. Among other things, the
14 section says that the “marshal of the North County Judicial District shall be
15 located within the City of Vista or such other place as shall be designated by the
16 Board of Supervisors of the County of San Diego.” The section also says that the
17 “marshal of the North County Judicial District shall maintain branch offices at a
18 location within the City of Escondido as shall be designated by the board of
19 supervisors.”

20 The entirety of Government Code Section 73956, including the marshal-related
21 material, appears to be obsolete. San Diego County no longer has any municipal
22 courts or marshals, and the judicial branch (not the county) is now primarily
23 responsible for determining court locations.²² The Commission recommends that
24 the section be repealed.²³

25 ***Merced County Marshal: Number, Salary, and Selection Process (Gov’t Code § 73796)***

26 Government Code Section 73796 says that there “shall be one marshal of the
27 Merced County Municipal Court.” The section also specifies the marshal’s salary
28 range and how to fill a vacancy in the position.

19. See *supra* note 13 & accompanying text.

20. See https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml?src=bkmk (as of July 1, 2017, estimated population of Shasta County was 179,921); <https://www.census.gov/quickfacts/fact/table/trinitycountycalifornia/PST045217> (as of July 1, 2017, estimated population of Trinity County was 12,709).

21. See proposed repeal of Veh. Code § 25254 *infra*.

22. For further explanation of these matters, see the Commission’s tentative recommendation on *Statutes Made Obsolete by Trial Court Restructuring (Part 6): Court Facilities* (Feb. 2019), pp. 6-12 (hereafter, “*TR on Court Facilities*”). The tentative recommendation is available on the Commission’s website at <http://www.clrc.ca.gov/J1405.html>.

23. See proposed repeal of Gov’t Code § 73956 *infra*.

1 The Merced County marshal's office was abolished in 2003.²⁴ Consequently,
2 there is no longer any need to specify the number of marshals in that office, the
3 marshal's salary, and the marshal selection process.

4 Government Code Section 73796 thus appears to be obsolete. In fact, the entire
5 article containing that section appears to be obsolete due to trial court
6 restructuring.²⁵

7 The Commission therefore recommends that the article pertaining to the Merced
8 County Municipal Court be repealed.²⁶ To ensure that this repeal would have no
9 adverse effect on any former marshal, former employee of a marshal, or their
10 families, the proposed legislation would include the following savings clause:

11 If a right, privilege, duty, authority, or status, including but not limited to, a
12 qualification for office, salary range, or employment benefit, is based on a
13 provision of law repealed by this act, and if a statute, order, rule of court,
14 memorandum of understanding, or other legally effective instrument provides that
15 the right, duty, authority, or status continues for a period beyond the effective
16 date of the repeal, that provision of law continues in effect for that purpose,
17 notwithstanding its repeal by this act.²⁷

18 This savings clause is identical to the one used in massive previous legislation on
19 trial court restructuring.²⁸

20 ***Sheriff-Marshall Consolidation Statutes (Gov't Code §§ 26625-26625.9, 26638.15, 26639-***
21 ***26639.3, 72116, 74820-74820.3)***

22 When trial court restructuring was in progress, many counties had statutes
23 specifying how to consolidate the local sheriff's office with the local marshal's
24 office. Most of those statutes have since been repealed,²⁹ typically pursuant to a
25 sunset clause that was added on the Commission's recommendation.³⁰ The
26 Commission is not aware of any adverse effects from those repeals.

24. See *supra* note 12.

25. See *TR on Court Facilities*, *supra* note 22, at 6-11 (explaining why Gov't Code §§ 73790-73796 are obsolete).

26. See proposed repeal of Gov't Code §§ 73790-73796 *infra*.

27. See proposed uncodified provision *infra*.

28. See 2002 Cal. Stat. ch. 784, § 622; see also *TCR: Part I*, *supra* note 10, at 20, 566.

29. See, e.g., former Gov't Code §§ 26630-26637 (Ventura County); 26638.1-26638.12 (Sacramento County); 26639.5-26639.7 (Solano County); 72110 (Riverside County); 72114.2 (San Diego County); 72115 (San Bernardino County).

30. The Commission's 2002 report on trial court restructuring explained:

Consolidation of sheriff and marshal operations has been an ongoing process. In most counties, the sheriff has assumed operations formerly performed by the marshal.... The consolidation statutes may continue to serve functions in some counties to the extent that they guarantee continuing rights of former marshal personnel. *The proposed legislation accommodates this situation by generally preserving the existing consolidation statutes, but adding a 15-year sunset clause to each of them.*

1 For various reasons, a few counties still have statutes that describe or refer to the
2 sheriff-marshall consolidation process. Those counties are Contra Costa,³¹ Los
3 Angeles,³² Merced,³³ San Joaquin,³⁴ and Shasta.³⁵

4 Due to the passage of time since consolidation, it now seems unnecessary to
5 preserve the material in these statutes regarding the transition to consolidation.
6 The Commission tentatively proposes to delete that material as obsolete.³⁶ The
7 savings clause previously discussed would protect any remaining rights of persons
8 affected by the consolidation process.

9 **Request for Public Comment**

10 The Commission seeks public comment on its tentative recommendation.
11 Comments can be in any format and can be emailed to bgaal@clrc.ca.gov.
12 Comments supporting the proposed approach are just as important as comments
13 suggesting changes to that approach or expressing other views.

14 The Commission also welcomes comments on other statutes that require
15 revisions to reflect trial court restructuring, regardless of whether they relate to
16 marshals. Comments from knowledgeable persons are invaluable in the
17 Commission's study process.

TCR: Part 1, supra note 10, at 16 (emphasis added; footnotes omitted). The 2002 legislation thus generally protected the rights of marshals and their personnel by preserving the sheriff-marshall consolidation statutes for a 15-year transition period. The 2002 legislation further protected those rights through the savings clause discussed above.

31. See Gov't Code §§ 26625-26625.9.

32. See Gov't Code §§ 26639-26639.3.

33. See Gov't Code § 26638.15.

34. See Gov't Code §§ 74820-74820.3.

35. See Gov't Code § 72116.

36. See proposed revisions of:

- Gov't Code §§ 26625, 26625.5, 26625.6, 26625.8, 26625.9 & Article 1.2 heading *infra* (Contra Costa County).
- Gov't Code §§ 26638.15-26638.15 *infra* (Merced County).
- Gov't Code §§ 26639, 26639.2, 26639.3 & Article 1.8 heading *infra* (Los Angeles County).
- Gov't Code § 72116 *infra* (Shasta County).
- Gov't Code § 74820.1 & Article 32.3 heading *infra* (San Joaquin County).

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PROPOSED LEGISLATION

GOVERNMENT CODE

Heading of Article 1.2 (commencing with Section 26625) (amended)

SEC. _____. The heading of Article 1.2 (commencing with Section 26625) of Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code is amended to read:

Article 1.2. Court Security in Contra Costa County ~~Marshal/Sheriff~~ Consolidation

Comment. The heading of Article 1.2 is amended to delete an obsolete reference to the consolidation of the marshal's office and the sheriff's office in Contra Costa County, which became effective in 1988, more than thirty years ago.

§ 26625 (repealed). Contra Costa County Court Services Consolidation Act of 1988

SEC. _____. Section 26625 of the Government Code is repealed.

~~26625. This article shall be known and may be cited as the Contra Costa County Court Services Consolidation Act of 1988.~~

Comment. Section 26625 is repealed as obsolete. This is not a substantive change. The consolidation of the marshal's office and the sheriff's office in Contra Costa County became effective in 1988, more than thirty years ago.

§ 26625.5 (repealed). Effect of consolidation on personnel

SEC. _____. Section 26625.5 of the Government Code is repealed.

~~26625.5. (a) All personnel of the marshal's office who are assigned to court services on the operative date of this section shall become members of the court security bureau at their existing salaries and benefits. Permanent employees presently holding the rank of deputy or sergeant, respectively, in the marshal's office shall become deputy sheriffs or sheriff's sergeants upon the operative date of this section.~~

~~(b) Sworn personnel described in subdivision (a) may be transferred to another position in the sheriff's office at the same or an equivalent classification, but shall not be involuntarily transferred out of court services.~~

~~(c) Permanent employees of the sheriff's office assigned to court services on the operative date of this section and permanent employees of the marshal's office on the operative date of this section shall be deemed qualified for employment and retention in the Sheriff's Department of Contra Costa County. Probationary employees of the sheriff's department assigned to court services on the operative date of this section and probationary employees of the marshal's office on the operative date of this section shall retain their probationary status and rights, and shall not be required to start a new probationary period.~~

~~(d) For personnel of the sheriff's office assigned to court services on the operative date of this section and personnel of the marshal's office on the operative date of this section, all county service shall be counted toward county seniority, and all time spent in the same classification, and all time spent in the equivalent or higher classification shall be counted toward classification seniority. All county seniority shall be credited as departmental seniority. For layoff and displacement purposes all covered service in the sheriff's department and marshal's office shall be counted equally, and the County's Personnel Management Regulations and other governing county ordinances and resolutions shall determine the class, county, and departmental seniority dates, the seniority and layoff order, and displacement rights of all employees.~~

~~(e) No employee of the sheriff's office assigned to court services on the operative date of this section or employee of the marshal's office on the operative date of this section shall lose peace officer status or be demoted or otherwise adversely affected by the consolidation of court services accomplished by this section. Peace Officer Standards and Training certificates held on the operative date of this section by employees of the Marshal's Department of Contra Costa County and the Sheriff's Department of Contra Costa County shall be considered the same for purposes of this section.~~

Comment. Section 26625.5 is repealed as obsolete. This is not a substantive change. The consolidation of the marshal's office and the sheriff's office in Contra Costa County became effective in 1988, more than thirty years ago.

§ 26625.6 (amended). Transfers

SEC. _____. Section 26625.6 of the Government Code is amended to read:

26625.6. (a) Notwithstanding any other provision of this article, the sheriff through the court security bureau commander shall make all transfers within the court security bureau consistent with existing personnel policies of the sheriff, memoranda of understanding, if any, and other county personnel management rules and regulations.

~~(b) A deputy marshal or deputy marshal sergeant on the operative date of this section who transfers out of the court security bureau to another division of the sheriff's office and subsequently fails to meet the employment standards of the other division may be transferred back to the court security bureau at the sole discretion of the sheriff.~~

Comment. Section 26625.6 is amended to delete obsolete material. This is not a substantive change. The consolidation of the marshal's office and the sheriff's office in Contra Costa County became effective in 1988, more than thirty years ago.

§ 26625.8 (repealed). Jail service requirement

SEC. _____. Section 26625.8 of the Government Code is repealed.

~~26625.8. Since the sheriff's department previously required each of its deputies to serve on its jail detention staff, and a deputy was permitted to credit time spent~~

~~as a superior court bailiff prior to January 5, 1987, in lieu of all or part of this jail requirement, employees of the marshal's office on the operative date of this section shall be required to serve on the jail staff only if they transfer out of the court security bureau. In addition, those employees shall receive day-for-day credit on the jail requirement for time spent prior to the operative date of this section in bailiff-related services in the municipal court to the same extent as sheriff's deputies receive such credit for time spent in bailiff-related services in the superior court. The purpose of this section is to provide equality of treatment for those who have provided equivalent service in the municipal and superior courts.~~

Comment. Section 26625.8 is repealed as obsolete. This is not a substantive change. The consolidation of the marshal's office and the sheriff's office in Contra Costa County became effective in 1988, more than thirty years ago.

§ 26625.9 (amended). Requirements of Commission on Peace Officer Standards and Training

SEC. _____. Section 26625.9 of the Government Code is amended to read:

26625.9. All sworn permanent employees ~~subsequently~~ assigned to the court security bureau shall be required to meet those requirements of the California Commission on Peace Officer Standards and Training imposed on all marshal's departments in California.

Comment. Section 26625.6 is amended to delete obsolete material. This is not a substantive change. The consolidation of the marshal's office and the sheriff's office in Contra Costa County became effective in 1988, more than thirty years ago.

§§ 26638.15-26638.15 (repealed). Court security services in Merced County

SEC. _____. Article 1.75 (commencing with Section 26638.15) of Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code is repealed.

Comment. Section 26638.15 is repealed to reflect:

(1) Unification of the municipal and superior courts in Merced County pursuant to former Article VI, Section 5(e), of the California Constitution, effective August 3, 1998.

(2) Elimination of the marshal's office in Merced County and transfer of its functions to the sheriff's office. See Section 26638.15; Merced County Ordinance No. 1687 (effective Jan. 15, 2003); Merced County Bd. of Supervisors, Minutes (Dec. 3, 2002), pp. 4, 16; see also Section 69921.5.

Note. The text of the repealed article is set out below.

Article 1.75. Merced County Court Security Division

26638.15. Notwithstanding any other provision of law, the Board of Supervisors of Merced County may abolish, by ordinance, the Merced County Marshal's office and establish a court security division in the Merced County Sheriff's Department. If the board of supervisors chooses to abolish this office, the following provisions shall apply:

(a) The sheriff shall be appointing authority for all division personnel. The person selected by the sheriff to oversee the operation of court security services shall report directly to the sheriff, or his or her designee.

(b) Notwithstanding any other provision of law, all personnel of the marshal's office affected by the abolition of the marshal's office in Merced County shall become employees of the sheriff's department at their existing or equivalent classification, salaries, and benefits.

(c) Permanent employees of the marshal's office on the effective date of transfer of services from the marshal to the sheriff pursuant to this section shall be deemed to be qualified, and no other qualifications shall be required for employment or retention. Promotions for all personnel from the marshal's office shall be made pursuant to standards set by the sheriff. Probationary employees in the marshal's office on the effective date of the abolition shall not be required to serve a new probationary period. All probationary time served as an employee of the marshal [sic] shall be credited toward probationary time required as an employee of the sheriff's department.

(d) All county service with the marshal's office by employees of the marshal's office on the effective date of the abolition of the marshal's office shall be counted toward seniority in the court security division of the sheriff's department.

(e) No employee of the marshal's office on the effective date of a consolidation pursuant to this section shall lose peace officer status, or otherwise be adversely affected as a result of the abolition and merger of personnel into the sheriff's department.

(f) The personnel of the marshal's office who become employees of the sheriff's department may not be transferred from the division in the sheriff's department under which court security services are provided unless the transfer is voluntary.

(g) Personnel of the abolished marshal's office shall be entitled to request an assignment to another division within the sheriff's department, and that request shall be reviewed in the same manner as any other request from within the department.

Heading of Article 1.8 (commencing with Section 26639) (amended)

SEC. _____. The heading of Article 1.8 (commencing with Section 26639) of Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code is amended to read:

Article 1.8. ~~Sheriff-Marshall Consolidation~~ Court Security in Los Angeles County

Comment. The heading of Article 1.8 is amended to delete an obsolete reference to the consolidation of the marshal's office and the sheriff's office in Los Angeles County, which became effective in 1994, more than twenty-five years ago.

§ 26639 (repealed). Consolidation of court-related services in Los Angeles County

SEC. _____. Section 26639 of the Government Code is repealed.

~~26639. This article applies to the abolition of the marshal's office and the consolidation of court-related services within the sheriff's office in Los Angeles County.~~

Comment. Section 26639 is repealed as obsolete. This is not a substantive change. The consolidation of the marshal's office and the sheriff's office in Los Angeles County became effective in 1994, more than twenty-five years ago.

§ 26639.2 (amended). Bailiff assignments

SEC. _____. Section 26639.2 of the Government Code is amended to read:

26639.2. The courtroom assignment of bailiffs in the Los Angeles County Superior Court ~~after consolidation pursuant to this article~~ shall be determined by the presiding judge and the bailiff's management representative; or their designees. Any new bailiff assignments shall be made only after consultation with the affected judge or commissioner in whose courtroom a new assignment is planned, the bailiff's management representative, and with the bargaining unit of the bailiff employee, if the employee is represented.

It is the intent of the Legislature, in enacting this section, to ensure that courtroom assignments are made in a manner which best assures that the interests of the affected judge or commissioner and bailiff are protected.

Comment. Section 26639.2 is amended to delete obsolete material. This is not a substantive change. The consolidation of the marshal's office and the sheriff's office in Los Angeles County became effective in 1994, more than twenty-five years ago.

§ 26639.3. (repealed). Effect of consolidation on personnel

SEC. _____. Section 26639.3 of the Government Code is repealed.

~~26639.3. (a) All county service or service by employees of the marshal's office on the effective date of the consolidation under this article shall be counted toward seniority in the sheriff's office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.~~

~~(b) No employee of the marshal's office or the sheriff's office on the effective date of the consolidation under this article shall lose peace officer status, be demoted, or otherwise adversely affected as a result of the consolidation.~~

Comment. Section 26639.3 is repealed as obsolete. This is not a substantive change. The consolidation of the marshal's office and the sheriff's office in Los Angeles County became effective in 1994, more than twenty-five years ago.

§ 72116 (amended). Court security services in Shasta County

SEC. _____. Section 72116 of the Government Code is amended to read:

72116. (a) ~~This section applies to the consolidation of court-related services within~~ Court-related services are provided by the marshal's office in Shasta County.

~~(b) Except as provided in subdivision (f), all personnel of the marshal's office or personnel of the sheriff's office affected by a consolidation of court-related services under this section shall become employees of that consolidated office at their existing or equivalent classifications, salaries, and benefits, and except as may be necessary for the operation of the agency under which court-related services are consolidated, shall not be involuntarily transferred out of the consolidated court-related services office for a period of four years following the consolidation.~~

~~(c) Permanent employees of the marshal's office or sheriff's office on the effective date of consolidation under this section shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary~~

~~employees of the marshal's office or the sheriff's office on the effective date of a consolidation under this section shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.~~

~~(d) All county service or service by employees of the marshal's office or the sheriff's office on the effective date of a consolidation under this section shall be counted toward seniority in that court-related services office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.~~

~~(e) No employee of the marshal's office or the sheriff's office on the effective date of a consolidation under this section shall lose peace officer status, or be demoted or otherwise adversely affected by a consolidation of court-related services.~~

~~(f) All sheriff's bailiffs affected by the consolidation shall be given the option of becoming employees of the marshal's office or of remaining with the sheriff's office. If a staffing shortage is created by the exercise of this option by these bailiffs, the marshal may accept qualified applicants from the sheriff's office under the provisions of subdivisions (b), (c), (d), and (e).~~

Comment. Section 72116 is amended to delete material that has become obsolete due to the passage of time since court-related services in Shasta County were consolidated within the marshal's office in 1993. This is not a substantive change.

§§ 73790-73796 (repealed). Merced County

SEC. _____. Article 12.5 (commencing with Section 73790) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73790-73796 are repealed to reflect:

(1) Unification of the municipal and superior courts in Merced County pursuant to former Article VI, Section 5(e), of the California Constitution, effective August 3, 1998.

(2) Enactment of the Trial Court Funding Act of 1997 and the related Trial Court Facilities Act of 2002. See Sections 77003 ("court operations" defined), 77200 (state funding of trial court operations). See also Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

(3) Enactment of Section 69740(a) (trial court to determine number and location of its sessions).

(4) Elimination of the marshal's office in Merced County. See Section 26638.15; Merced County Ordinance No. 1687 (effective Jan. 15, 2003); Merced County Bd. of Supervisors, Minutes (Dec. 3, 2002), pp. 4, 16; see also Section 69921.5.

Note. The text of the repealed article is set out below.

Article 12.5. Merced County

73790. There is hereby created a municipal court district which embraces the entire County of Merced. This article applies to the municipal court established within the district, which shall be known as the Merced County Municipal Court.

73792. Facilities for the court shall be maintained at or near the county seat and at court facilities provided elsewhere as determined by ordinance adopted by the board of supervisors.

The court shall determine the nature and frequency of sessions held at additional court locations designated by the board of supervisors.

73796. There shall be one marshal of the Merced County Municipal Court. The marshal shall receive a salary on range 68.5.

When a vacancy occurs in the office, a majority of the superior and municipal court judges shall appoint the marshal and the marshal shall serve at their pleasure.

§ 73956 (repealed). Court facilities and sessions

SEC. _____. Section 73956 of the Government Code is repealed.

~~73956. The headquarters of the municipal court and the clerk and marshal of the North County Judicial District shall be located within the City of Vista or such other place as shall be designated by the Board of Supervisors of the County of San Diego. The municipal court shall hold sessions at its headquarters and at a department at a location within the City of Escondido and at such other location or locations within the North County Judicial District as shall be designated by the board of supervisors. The clerk and marshal of the North County Judicial District shall maintain branch offices at a location within the City of Escondido as shall be designated by the board of supervisors. The Escondido branch office shall maintain the same office hours as the headquarters offices and shall provide facilities for complete municipal court services, including the filing of original complaints and other documents and the posting of bail, and the board of supervisors shall provide facilities within the City of Escondido for the complete transaction of business of the court including the holding of jury trials.~~

Comment. Section 73956 is repealed to reflect:

(1) Unification of the municipal and superior courts in San Diego County pursuant to former Article VI, Section 5(e), of the California Constitution, effective December 1, 1998.

(2) Enactment of the Trial Court Funding Act of 1997 and the related Trial Court Facilities Act of 2002. See Sections 77003 (“court operations” defined), 77200 (state funding of trial court operations). See also Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

(3) Enactment of Section 69740(a) (trial court to determine number and location of its sessions).

(4) Elimination of the marshal’s office in the area.

Heading of Article 32.3 (commencing with Section 74820) (amended)

SEC. _____. The heading of Article 32.3 (commencing with Section 74820) of Chapter 10 of Title 8 of the Government Code is amended to read:

**Article 32.3. San Joaquin County Court Security and Civil Process
Consolidation**

Comment. The heading of Article 32.3 is amended to reflect elimination of the marshal’s office in San Joaquin County.

§ 74820.1 (amended). Application of article

SEC. _____. Section 74820.1 of the Government Code is amended to read:

